

Town of Lamoine
Millard Billings, Code Enforcement Officer
606 Douglas Hwy
Lamoine, ME 04605

(207) 667-2242

To: Lamoine Board of Appeals
From: Millard Billings, Code Enforcement Officer
Re: Shubert v. Code Enforcement Officer/Young
Date: November 23, 2015

Thank you for allowing me to present the pertinent information to the above referenced appeal before your board. Based on the information provided to me, the appeal that was filed claims that a Shoreland Zoning permit that I issued was issued in error. This will help lay out the time line of the events that occurred, the interpretation of our local Shoreland Zoning Ordinance and state guidance provided in such instances.

1. On Monday, September 21, 2015, I received an application (**CEO Exhibit 1 – 8 pages**) from Frank (Mike) & Wendy Young to construct a breezeway between their existing residence on Ice House Lane and an existing garage. While meeting with the Youngs, and after quickly consulting with the property tax records, we wrote in the incorrect lot number on tax map 12 as lot 46. The correct lot number should have been 21. After review of the information and sketch plan that were part of the permit application, I granted both a building and a Shoreland Zoning permit (**CEO Exhibit 2**). The review criteria in the Shoreland Zoning Ordinance (**CEO Exhibit 15 - 5-pages**) guided my decision to grant the permit finding:
 - An existing structure (a residence) was non-conforming (**CEO Exhibit 1**)
 - Section 12(c) of the Shoreland Zoning Ordinance allows for expansion of a non-conforming structure by less than 30% as measured in floor area or volume. (**CEO Exhibit 15**)
 - The proposed structure was not an expansion toward the water body. (**CEO Exhibit 1**)
 - The land use was an accessory structure (a breezeway) in the Limited Residential Zone (**CEO Exhibit 11**), and the Code Enforcement Officer is the issuing authority in that zone. (**CEO Exhibit 1 & 15**)
 - The proposed structure was set back at least 100-feet from the high water mark. (**CEO Exhibit 1, 15**)
 - The proposed structure was not on a highly unstable or unstable Coastal Bluff (**CEO Exhibit 12 – 2 pages, CEO Exhibit 15**).
2. On Monday, September 28, 2015, Administrative Assistant Stuart Marckoon informed me that the lot number that was on the permits and the application were incorrect and should have been Map 12 Lot 21 instead of 46. He said that he had corrected the lot number on the application form so that it reflected lot 21 which coincides with the physical location of the application form (**CEO Exhibit 1 Page 1**)
3. On Tuesday, October 13, 2015 I received a message from Mr. Marckoon via electronic mail (**CEO Exhibit 3**) reporting that William Shubert had dropped off a communication in regard to the permit that was issued (**CEO Exhibit 4 – 3 pages**). Because I normally work on Monday, but October 12, 2015 was a holiday, the plan was that I hold office hours work on Wednesday, October 14,

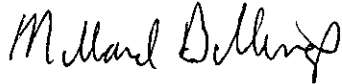
2015. I had previously worked in the office on October 5, 2015, attended a Planning Board meeting that night, and again on October 7, 2015. On October 8, 2015 I left for West Virginia, returning to work on October 14, 2015.
4. On Wednesday, October 14, 2015, Mr. Shubert was waiting at the Lamoine Town Office when I arrived at 1:00 PM. He seemed surprised that I had not read his letter already, and appeared to be upset when I told him I would take no action until I had an opportunity to review the application, his complaint and the Building and Land Use and Shoreland Zoning Ordinance. I suggested to Mr. Shubert that he might wish to file an appeal with the Board of Appeals as the 30-day right to appeal would expire in about 7-days (October 21, 2015).
 5. On Monday, October 19, after reviewing the application, complaint and the ordinances, I issued a Stop Work Order and a Notice of Violation (**CEO Exhibit # 5 – 3 pages**) The reason for the violation is that the proposed breezeway was less than 125-feet from the high water mark, which requires that a surveyor place stakes at the 100-foot mark. (**CEO Exhibit 15 – Section 15B**)
 6. On Friday, October 23, I had a telephone conversation regarding this matter with Mike Morse of the Department of Environmental Protection (Shoreland Zoning).
 7. On Monday, October 26, 2015, I received a letter from Jonathan Stewart of Pisga and Day Land Surveyors stating that he had placed a stake at the 100-foot line showing that point of the setback from the normal high water line. (**CEO Exhibit 6**). I visited the lot in question to conduct a site inspection, measuring buildings and setbacks. I observed the stakes placed by Mr. Stewart (**CEO Exhibit 7**). I also calculated the total lot coverage of the existing and proposed buildings to be 4,113.17 square feet (**CEO Exhibit 8 – 2 pages**). The Lamoine property tax card (**CEO Exhibit 9 – 4 pages**) indicates the lot to be 1.53 acres in size, or 66,646.8 square feet. Removing 2,100 square feet of road leaves a total of 64,546.8 square feet. The proposed lot coverage with the breezeway totals 6.3% of the land area, leaving 2,341.51 square feet remaining as available for development. The Shoreland Zoning Ordinance allows for a maximum of 10% lot coverage. I told Mr. & Mrs. Young that I was lifting the Stop Work Order and in my opinion they were in compliance and the Notice of Violation was rescinded. I informed them that Mr. Shubert had filed an administrative appeal with the Lamoine Board of Appeals, and advised it would probably be in their best interest not to start any construction until after the Board of Appeals had reached a decision.
 8. Several additional considerations include the historic record of the existing dwelling as shown on the property tax cards (**CEO Exhibit 9**), the Lamoine Property Tax Map (**CEO Exhibit 10**), which verify the building and lot size measurements. I also consulted both the Maine Shoreland Zoning Handbook for Shoreland Owners (**CEO Exhibit 13, 3-pages**) for guidance on non-conforming structures. In regard to the 30% expansion rule, it is "based on both the floor area and the volume of the structure as it existed on January 1, 1989, but only applies to the part of the building that is within the required setback....". The Municipal Code Enforcement Officers Training and Certification Manual (**CEO Exhibit 14, 3 pages**) makes a similar reference.

Based on the evidence presented and the supporting documentation, I believe that the Shoreland Zoning and Building and Land Use Permits were issued correctly.

CEO Exhibit List

EX#	Description	Pages
1	Construction Application	8
2	Copy of Building and Shoreland Permits	1
3	E-mail from Adm Asst to CEO re lot #	1
4	Letter from W. Shubert to CEO Dated 10/12/15	3
5	Notice of violation, Stop work order	3
6	Letter from Jonathan Stewart re: setback stakes	1
7	Pictures of setback stake placement	1
8	Sketch plan of existing home and garage and proposed breezeway with square footage calculations	2
9	Property tax cards (current, past)	4
10	Property tax map of Map 12 Lot 21	1
11	Shoreland Zoning Map	1
12	Coastal Bluff Maps	2
13	Except of Shoreland Zoning Handbook for owners	3
14	Except of CEO Training Manual on Shoreland Zoning	3
15	Excepts of Lamoine Shoreland Zoning Ordinance	5

Respectfully submitted,



Millard Billings, Code Enforcement Officer

Town of Lamoine
Construction Application

This section to be completed by Code Enforcement Officer

Map 12 Lot 46 21 Zone LRS Shoreland Zone YBS Flood Zone NAFee Calculation 72.00 Date Received 9/21/15 Permit Number 15-37☒ Building Permit ☒ Shoreland Permit ☐ Floodplain Hazard Permit

The undersigned applies for a construction permit for the uses indicated below. Said permit is to be considered on the basis of the information contained within this application. Any Federal, State or Local statutes, or regulations shall be applicable and their compliance necessary to obtain a permit. The permit will be issued to the owner of record or properly designated agent. Incomplete applications will NOT be processed.

Section I – Owner, Applicant & Contractor Information

Owner		Applicant	Contractor
Name	MIKE & WENDY YOUNG	MIKE AND WENDY YOUNG	MATTHEW BERGIN
Mailing Address	113 BOHN		
City, St. Zip	ELLSWORTH, ME		
Home Phone	207-266-4140		
Work Phone	.		
Cell Phone			
Email	fmyoung@gmail.com		

Section II – Lot information

Existing Property Use RESIDENTIAL Lot Size (acres or square feet) 1.5 ACRESPhysical Address of property (road name & number) 71 ICEHOUSE LANE

Please Answer all questions below

	Yes*	No
Are Current Uses non-conforming?		<input checked="" type="checkbox"/>
Are State or Federal Permits Required?		<input checked="" type="checkbox"/>
Is State or Federal Funding provided?		<input checked="" type="checkbox"/>
Is lot created by division from another Lot in the past 5 years?		<input checked="" type="checkbox"/>

*If yes, attach explanation to application

Facilities Info (check all that apply)

Well	<input checked="" type="checkbox"/>
Cold Spring Water Co Customer?	
Septic System Permit #	<input checked="" type="checkbox"/>
Subdivision name & Lot #	

Section III – Proposed Construction Activity

(Check All That Apply, fill in dimensional information) *Provide RV, Mobile Home Information requested on Page 3

Residential Uses	#Stories	Sq. Ft.	Total Sq. Ft.	SSWD #	Int Plumb #	Accessory Uses	Sq Ft
<input type="checkbox"/> New Dwelling Unit						Garage/Shed/Barn	
<input type="checkbox"/> Manufactured Home						Deck	
<input type="checkbox"/> Mobile Home*						Shore Access	
<input type="checkbox"/> Change of Use							
<input checked="" type="checkbox"/> Expansion	0	250	3605*				
<input type="checkbox"/> Recreational Vehicle*							

Other Activity: (Please describe in space below)

CONSTRUCTION OF A BREEZE WAY (ENCLOSED) FROM GARAGE TO HOUSE PER ATTACHED DRAWING

Section IV – Demographic & Assessment Information

For new dwelling units only –

- Estimated Construction Costs \$ _____
- Number of Bedrooms _____
- # Full Time Residents _____ # Part Time Residents _____ # Children under 18 _____
- List any in-home occupations proposed _____

Section V – Important Dates

Starting Date: OCTOBER 1, 2015 Estimated Completion Date OCTOBER 30, 2015

Section VI – Shoreland Zoning (if applicable)

Affected Waterbody EASTERN BAY Distance from normal high water 170 feet.

Is clearing of trees and other vegetation required? Yes ☒ No (if yes, attach explanation)

Is earth moving activity greater than 10CY? Yes ☒ No (If yes, DEP Permit required)

Is setback less than 125 feet from high water mark? Yes ☒ No

If yes, please attach certification from a licensed surveyor that the 100-foot setback and elevation have been staked.

Section VII – Flood Zone Information

Is the proposed development located within a Flood Hazard Area? Yes ☒ No

If Yes, complete the information below

- | | |
|---|-------------------------------|
| 1. Filling _____ cubic yards of fill | 9. Residential Structure |
| 2. Excavation _____ cubic yards removed | 10. Non-residential Structure |
| 3. Paving _____ square yards paved | 11. Water Dependent Use |
| 4. Drilling _____ | A. Dock Dimensions _____ |
| 5. Mining _____ acres mined | B. Pier Dimensions _____ |
| 6. Dredging _____ cubic yards dredged | C. Boat Ramp Dimensions _____ |
| 7. Levee _____ cubic yards in levee | 12. Floodproofing _____ |
| 8. Dam _____ acres of water surface | 13. Other (explain) _____ |

Flood Zone (check one) A&AE Floodway V&VE ZO AH

Elevation of lowest floor (NGVD) for all structures: _____

Grade elevation at lowest grade adjacent to the existing or proposed wall: _____ (NGVD)

Distance in feet of confluence or Corporate limit _____ feet

If in Flood Zone AE or A1-A30, Nearest Cross Section References

Above Site _____ Below Site _____

Elevation of Base Flood at Nearest Cross Section

Above Site _____ Below Site _____

If "A" Zone: Base Flood Elevation _____

Basis of "A" Zone BFE determination _____

If in "VE" Nearest Transect Above site _____ Below Site _____

Provide a statement describing how each applicable development standard (set forth in ARTICLE VI of the Flood Hazard Development Ordinance) will be met. If a water course is to be altered or relocated, describe in detail and provide copies of all applicable state and federal permits. Include certification from a licensed surveyor that the proposed project is located outside of the 100-year floodplain.

Name of Surveyor/Architect/Engineer _____ License # _____

Section VIII – Additional Information or Attachments Required

- If property is not currently assessed to listed owner, please attach record of ownership
- If applicant is signing, please attached signed permission from owner to make application
- Attach any state or federal permits required
- If a dwelling unit, attach 3 copies of HHE200 form and applicable internal plumbing permit applications
- If driveway opens on public road, attach Lamoine Road Opening Permit Application, or MDOT approved road opening permit
- For Shoreland Zone applications with less than 125' setback, attach certification from registered surveyor that markers are placed to establish the 100-foot setback & elevation from the normal high water mark.
- Please supply all information requested on pages 5 and 6 or attach plans with required information.

Section IX – Signature

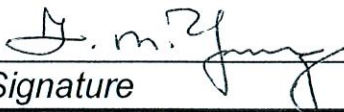
Signature by the applicant indicates an awareness of the requirements of the Lamoine Building and Land Use Codes, the Lamoine Shoreland Zoning Ordinance, and the Floodplain Hazard Development Ordinance for the Town of Lamoine. Submission of this application constitutes an application for a Certificate of Occupancy. **A Certificate of Occupancy must be obtained before the structure hereby permitted is used!. BUILDING PROJECTS MUST MAKE SUBSTANTIAL START WITHIN ONE YEAR OF APPROVAL AND SUBSTANTIAL COMPLETION WITHIN TWO YEARS. SHORELAND PERMITS EXPIRE IN ONE YEAR.**

For those lands which fall within the Lamoine Shoreland Zoning area, a signature on this application indicates that the applicant has read the current Shoreland Zoning Ordinance and agrees to comply with all its requirements if a permit is issued.

For new structures or substantial improvements within the Flood Hazard Area, an approved permit will allow construction up to the establishment of the lowest floor. At that point, the applicant must provide an elevation certificate establishing actual floor elevation. Upon satisfactory documentation to the community (CEO), the construction may continue. The applicant understands and agrees that:

- ⇒ the permit applied for, if granted, is issued on the representations made herein;
- ⇒ that any permit issued may be revoked because of any breach of representation;
- ⇒ that once a permit is revoked all work shall cease until the permit is reissued or a new permit is issued;
- ⇒ any permit issued on this application will not grant any right or privilege to erect any structure or use any premises described for any purposes or in any manner prohibited by the ordinances, codes, or regulations of the Town of Lamoine
- ⇒ The applicant hereby gives consent to the Code Enforcement Officer or designated Town Official to enter and inspect activity covered under the provisions of the Floodplain Management Ordinance
- ⇒ If issued, the permit will be posted in a conspicuous place on the premises in plain view and;
- ⇒ If issued, the permit will expire if no work is commenced within 90 days of issuance (flood hazard only)

I hereby certify that all the statements in, and the attachments to this application are a true description of the existing property and the proposed development project.


Signature

9/20/2015
Date

Application Fees:

	Residential Building	Commercial* Building	Shoreland	
Non-roofed	.05/sq. ft.	.10/sq. ft.	Non commercial	.10/sq ft
Roofed	.10/sq. ft./floor	.20/sq. ft/floor	Commercial	.20/sq ft
<100 sq. ft.	No charge	No charge	<100 sq ft	\$10.00
Home Occupations: \$10.00				

*Included Commercial, Industrial, Multi-Family. See Site Plan Review Ordinance, Subdivision sections for additional fees.

Lamoille

For Use by the Code Enforcement Officer OnlyApplication Number 1537 Date Received 9-21-15

Fees Collected: Building Permit \$ 36.00
 SZO Permit \$ 36.00
 Flood Hazard \$ _____
 Total \$ 72.00 Receipt # _____

Action Taken: Michael Bellamy 9-21-15
 Signature Date

- ☒ Approved Building Permit SSWD Permit # _____
☒ Approved Shoreland Permit DEP Permit # _____
☐ Approved Flood Hazard Permit Internal Plumbing Permit # _____
☐ Denied Permits (explain below) Other Permits (List) _____
☐ Routed to Planning Board
☐ Routed to Appeals Board

Comments

Planning Board Action	Appeals Board Action
Date Received _____	Date Received _____
Public Hearing Date _____	Public Hearing Date _____
Notices Mailed by: _____	Notices Mailed by: _____
Action Date: _____	Action Date: _____
Action Taken <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Action Taken <input type="checkbox"/> Approved <input type="checkbox"/> Denied
Denial Reasons or Conditions 	Denial Reasons or Conditions
_____, Chair/Secretary Signature	_____, Chair/Secretary Signature

Elevations - Please show a picture of the proposed development and its height and shape above ground. You may attach formal building plans and drawings in lieu of these pages if you wish.

Front or Rear View

Side View

Floor Plan

Scale _____ = _____ feet

PLOT PLAN

PLEASE INCLUDE ALL SETBACK DISTANCES FROM:

Property Boundaries, Roads, Streets and rights of way, all wetlands and waterbodies, any existing wells and septic systems. Include 100 foot shoreland set back and/or flood elevations if applicable. Show all proposed decks & porches. Please identify all abutter names. (You may attach your own plot plan if you desire)

Scale _____ = _____ feet

EDGE OF MOOSE 120' FROM
HIGH WATER MARK

EXIST: 210503

[illegible]

2000

NOTE: WALL HEIGHT 8' 3" MIN.
WIDE ROAD 12' MIN.

1504112220051245

EX-526
GAGE

25042

b7c, b7d

130

9

10

Town of Lamoine - Code Enforcement Receipt Exhibit 1 Page 8

Received From: Michael/Wendy Young

Date

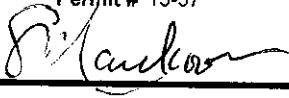
Receipt #

310

The amount of Seventy two and 00/100 US Dollar
\$72.00

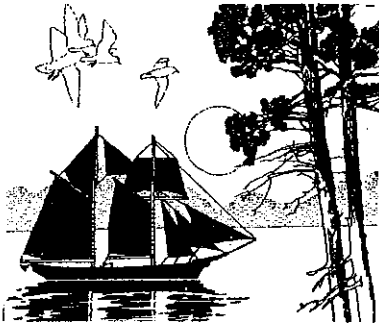
Property Owner's Name	Map	Lot
Michael & Wendy Young	12	46

Permit # 15-37



Received by Stuart Marckoon

Building Permit	36.00
Shoreland	36.00
Plumbing	
Siteplan	
Gravel	
Flood	
Appeal	
Subdivision	
Autograveyard	



Town of Lamoine Building/Land Use Permit

Date of Issue 9/21/15 Map 12
 Name Mike & Wendy Young Lot 46
 Permit Number 1537 Issued By Michael Bellini
 Type of Project: Breezeway connecting house + garage 360 sq ft

Foundation Setback Checked	Final Inspection Date	Certificate of Occupancy Date

NO OCCUPANCY WITHOUT PERMIT

This card must be visible from the lot frontage

Building permits expire in two years

Lamoine CEO 667-2242



Town of Lamoine Shoreland Zone Permit

Map 12 Lot 46 Zone LR5

Issued to: Mike & Wendy Young Date: 9-21-15

The above described project complies with the Town of Lamoine Shoreland Zoning Ordinance and is hereby issued this permit to commence construction within the Shoreland Zone.

Fee: 36.⁰⁰ Issued by Michael Bellini
 Associated Building Permit Number 1537

From: Town of Lamoine <town@lamoine-me.gov>
Sent: Tuesday, October 13, 2015 8:36 AM
To: 'Code Enforcement Officer (ceo@lamoine-me.gov)'; Millard Billings (mbillings46@yahoo.com)
Subject: Complaint/Appeal, inspection request

Hi Millard,

A couple of things have come in in advance of tomorrow. Brian Walls would like an internal plumbing inspection on the Collins Project (the application came in late last week and is sitting on your desk.) His number is 460-5295.

A William Shubert dropped off a rather lengthy request questioning the permit issued to Mike and Wendy Young and whether it is in conformance with the Shoreland Zoning Ordinance. They are concerned that all the material is in place and it looks like they are getting ready to start, but this might not qualify for a construction permit. There is an envelope on your desk about that as well.

Stu

October 12, 2015

Dear Lamoine CEO,

We have reviewed application 15-37, an addition to our neighbor's home, and have found it lacking in required details.

During that review we identified six potential discrepancies that we feel require further review and/or action. We would like to meet with you and discuss those. We also request that the normal appeal period be extended from the date that the actual lot number was published to the public. That would be October 7th, when a call was placed for clarification to the Town Manager.

The lot involved is Map 12 Lot 21. It was erroneously listed on the permit list as Map 12 Lot 46. That has now been corrected. This lot is shown to have had three prior property improvements since the current owners purchased the property. They are permits 13-29, 13-15 and 12-08. Our concerns are complicated by omissions on application 13-29; specifically the side yard setback and related driveway and road constructions.

1. NON-Conforming or conforming?

On the permit, 15-37 the box listing conforming or non-conforming is checked to be conforming. On a permit in 2013 13-29, for the second garage, the lot was identified as non-conforming. This home "lot" does not conform to current Lamoine Shoreland zoning regulations with respect to shore set backs and shore frontage. All of the current primary residence is located less than 100 foot from the normal high tide line. In addition, the coastal bluff has had significant plant disturbance and erosion recently, and may/could now be considered unstable, which would complicate measurements further.

2. 100 foot survey request .

No formal survey or indications that the CEO has acknowledged a survey and the placement of 100 foot setback stakes, as required by code, has been accomplished either prior to or during the current ownership. In fact, in comparing the two latest permits (permit 2015 and permit 2013), two different setbacks have been drawn and labeled on the plan by the current home-owner. On the garage permit 13-29, the back or north wall of the home is described as 100 feet from the water. On the addition permit that same corner is labeled as being 120 feet from the mean high tide line. Which is correct? Perhaps it is time to insist that a survey be performed.

Applicant seems to be confused. Sec 15.B1 references Normal High Water Line. Mean High Tide, while advantageous to the applicant, is irrelevant.

3. Potentially Exceeds the 10% or 20% rule.

The first 250 feet of Shoreland Zone. Map12-Lot 21 "house-lot" as described in the current deed is a 141ft wide property x 250 ft setback = 35,250 square foot. Max. of 20% = 7,050 square foot surface, 10% would be 3,525 square foot. Current 1500, 1339 and 60 square foot buildings and associated access ways exceed the 10% limit if added together. Coverage within shoreland zone by State Statue is 20%, Lamoine BLU Sec. 15.B.5 set the limit at 10% and BLU O.(3) calls for 25% when including the septic area.

We believe that the owner has exceeded the 20% rule in terms of impervious surfaces with the current driveways to and around the newest (largest) garage addition, and the driveway to the shed. In addition to not being permitted, to our knowledge, they violate BLU Sec F.2. and I. with respect storm water runoff and retention of same on site because the site has been built up above normal grade.

Again, it would help if there were a site plan showing all the current driveways and access points with dimensions so that this could be formally determined. A rough calculation of the current driveway to the newest two bay garage shows a 90 foot driveway averaging 25 feet wide. There is also a driveway around this garage and over to the front/back door of the home, continuing around to the shed (which does not appear in any of the permit applications). There should also be inclusion of a deed recorded roadway easement that runs across the property.

4. Potential violation of side/back setback.

Since the side lot lines are not drawn on the plans submitted in 2013, there is no information as to where structures are located in relation to the side lot line. Our estimated measurements include a 10 foot "driveway" along the east side of the garage, but less than 15 foot between the driveway and lot lines on east side. In addition, the "garden shed" has been moved and relocated less than 25 foot from the west lot line. A driveway has been constructed between the shed and the home that is not indicated on the submitted plans.

5. Potential for "bunkhouse" in current garage.

The addition of three large picture windows on the first and second floors not described on the permit for 2013 13-29 structure and its pending connection to the primary residence, plus recent insulation and heating installation could create a bunkhouse, which is prohibited in the shoreland zone.

6. BLU Definition of "Accessory Structure".

"A deck or similar extension of the primary structure or a garage attached to the principal structure by a **roof** or common wall is considered part of the principal structure." The proposed breezeway meets this definition. In one case the southern end of the "garage" structure is framed for future separate use other than motor vehicle use. It is estimated to be more than 600 sqft. Coupled by an approximate 360 sqft of breezeway, the total exceeds the 401 sqft allowable expansion of the principal structure. In a second case the "roof" the breezeway combines 1500sqft of the garage to the 1339 sqft of the principal structure.

In summary, we feel that Permit 15-37 should have been denied. It is incomplete with respect to the information necessary to truly evaluate the impact of the proposed project on the compliance of the lot, as a whole, to both BLU and Shoreland standards. If it were complete, we believe that it would be denied for any or all of the previously stated reasons.

It appears that construction is about to start. A cease and desist order would be appropriate at this time until all issues are resolved. We expect a response within the week. Thank You for your immediate attention to this matter.

Sincerely,

William M. Shubert, Jr.

Copy: Chair, Planning Board
Chair, Selectmen of Lamoine



Millard Billings, Code Enforcement Officer

CEO Exhibit 5 Page 1

606 Douglas Hwy,
Lamoine, ME 04605

(207) 667-2242

NOTICE OF VIOLATION/ORDER FOR CORRECTIVE ACTION

FIRST NOTICE

TO: Mike & Wendy Young, 113 Bohn, Ellsworth, ME 04605

You are hereby notified that you are in violation of the **Shoreland Zoning Ordinance Town of Lamoine, Section 15B, Required Setbacks**

Violation observed on October 19, 2015. On your property at 71 Ice House Lane in Lamoine on Map 12 Lot 21 of the tax maps of the Town of Lamoine made by James W Sewall Co., Old Town, Maine, dated 1973, and updated April 1, 2015, consisting of 21 maps, numbered 1 to 21, inclusive, on file at the assessor's office in the town of Lamoine. Being further described in **Book 5669 Page 48** as found in the Hancock County Registry of Deeds.

Description of Violation: you applied for a Building Permit for your property at 71 Ice House Lane and did not include a copy of a survey showing the structure meet the 100 foot setback from the normal high water line. Without such a survey your structure must be setback 125 feet from the normal high water line. Stop all construction on this project until the survey and letter are submitted to the Town Office for review.

You are hereby ordered to take the following corrective action or measures no later than: **November 19, 2015**. You must provide the Town of Lamoine with a survey showing the 100 foot setback from the normal high water line and a letter from a registered surveyor as required by the Shoreland Zoning Ordinance Town of Lamoine, Section 15B, Required Setbacks.

This Ordinance shall be enforced in accordance with Title 30-A MRSA Paragraph 4452." Title 30-A M.R.S.A. § 4452 establishes a fine of \$100 to \$2,500 for each violation of the Ordinance. (A separate fine will be assessed for each day a violation continues). If you refuse to enter into a consent agreement and to pay the requested fine, or if the Code Enforcement Officer believes a court action is warranted, court action may be brought against you. The Town will seek an order for corrective action, a substantial fine, plus its Attorneys' fees and costs in such an action.

As permitted by the Shoreland Zoning Ordinance Town of Lamoine Section 16 Subsection I, an appeal of this enforcement action may be taken to the Zoning Board of Appeals within thirty (30) days of the date of this order, by submitting to the clerk of the Zoning Board of Appeals a written statement and application of the relief requested and why it should be granted. Failure to exercise this administrative procedure will jeopardize your right of appeal.

Please contact the Code Enforcement Officer if you have any questions concerning this violation and to make arrangements to satisfy the penalty. You must notify the Code Enforcement Officer when corrective action is taken. The Code Enforcement Officer is available at the Town Office on Mondays 1-4 P.M., phone 667-2242.

October 19, 2015

Date

Millard Billings

Code Enforcement Officer



LEGAL NOTICE

Date: October 19, 2015

WHEREAS, violation of Section 15(B) of the Shoreland Zoning Ordinance/State of Maine Statutes have been found on these premises, IT IS HEREBY ORDERED in accordance with the above Code/State Statute that all persons cease, desist

STOP WORK

At once pertaining to construction, alterations or repairs on these premises known as:

Map 12, Lot 21, setback of less than 125 feet requires survey and marked with stakes and a letter from surveyor

All persons acting contrary to this order or removing or mutilating this notice are liable to arrest unless such action is authorized by the Code Enforcement Department of the Town of Lamoine.

Code Enforcement Officer



LEGAL NOTICE

Date: October 14, 2015

WHEREAS, violation of Section 18.01 of the Zoning Ordinance of the Town of Lanesboro, New Hampshire, has been found on these premises, IT IS HEREBY ORDERED in accordance with the above Code/State Statute that all persons cease, desist,

STOP WORK

and refrain from any further work, alterations or repairs on these premises known as:

Map 12, Lot 21, subject of less than 525 feet requires survey and marked with stakes and a letter from the owner.

All persons acting contrary to this order or rendering or violating this notice are liable to arrest unless such action is authorized by the Code Enforcement Department of the Town of Lanesboro.

Michael J. Gillingham
Code Enforcement Officer

Stanley J. Plisga, Jr.
Richard A. Day
Norris G. Staples
Henry J. Hunter, III

Gusta Ronson
Brian P. Taylor
Timothy F. Cady
Patrick J. Donovan
Jonathan M. Stewart
Clark G. Staples
Adam N. Robinson
Keith E. Blanchard
J. Patrick Pinkham

PLISGA & DAY
LAND SURVEYORS

72 MAIN STREET
BANGOR, MAINE 04401

TELEPHONE (207) 947-0019
(800) 734-0019
FAX (207) 942-9807

Email: js@wemapit.com

www.WeMapIt.com

CEO Exhibit 6

(207) 947-2307

710 New Limerick Road
Linneus, Maine 04730
(207) 532-2695

dba Good Deeds
109 Main Street
Belfast, Maine 04915
(207) 338-5743

October 22, 2015

Town of Lamoine
ATTN: Code Enforcement Officer
606 Douglas Highway
Lamoine, ME 04605

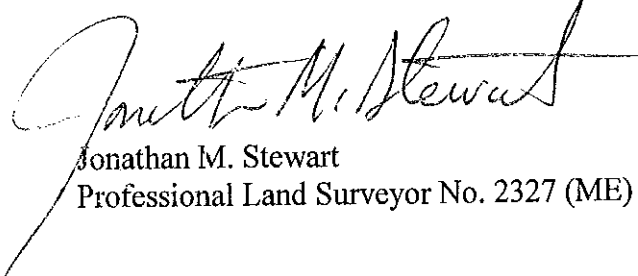
RE: Young Property – 71 Icehouse Road – Lamoine, Maine

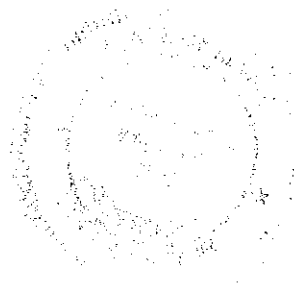
Dear Code Enforcement Officer:

Yesterday, I visited to the Young parcel located at 71 Icehouse Road in Lamoine. I observed and located the normal high water line. I offset this line landward horizontally 100.00 feet in my computer. I staked this computed line in the vicinity of the existing house. I set 12 inch long iron spikes flush with the ground and set grade stakes marking the 100' line. I set at least three spikes and three grade stakes on both sides of the house.

If you have any questions or require further information regarding my understanding of the work performed, please do not hesitate to contact me.

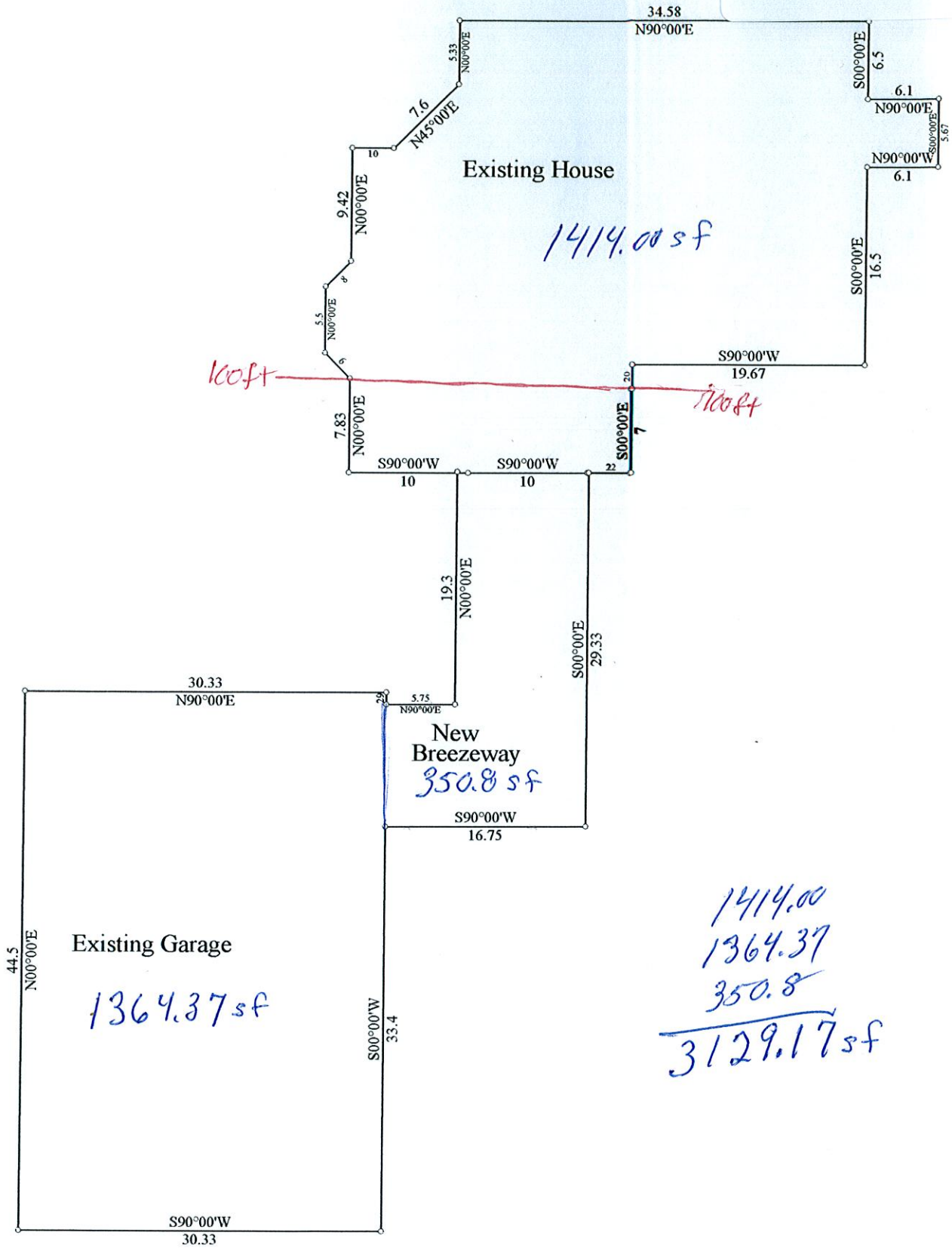
Sincerely,


Jonathan M. Stewart
Professional Land Surveyor No. 2327 (ME)



Cc: Mike & Wendy Young





Map 12	Lot 21	1.53 acres	43,560 sf/ac	66,646.80 sf	15+13/2
				<u>2,100.00 ROAD</u>	
house	1,414.00			64,546.80	
garage	1,364.37			10% lot coverage	
breezeway	350.80			6,454.68 allowable lot coverage	
garage	864.00			<u>4,113.17 building coverage</u>	
Shed	120.00			2,341.51 available	
	<u>4,113.17</u>				

CARD OF CARDS

CEO Exhibit 9 Page 1

PROPERTY ASSESSMENT RECORD

TOWN OF LAMOINE, MAINE

CARD 1 OF 1 CARDS

P	LOT	ROAD	OWNER	SINGLE FAMILY	TWO FAMILY	APARTMENT	RESIDENTIAL	SEASONAL	OTHER	NEIGHBORHOOD	REMARKS:	PG	BK	DATE	WILL	RET ST	SUMMARY
2	21	Route #184, Side Road	Kelley, Thos, Jas, Edward														<div>LAND</div> <div>BLDG.</div> <div>TOTAL</div>
<div>RECORD OF OWNERSHIP</div> <div> <div>elley, Thos, Jas & Ed., G/o D. Kelley, Box 681</div> <div>340 State St., Bangor, ME 04401</div> </div>																	
<div>OR INSPECTED:</div> <div> <div>NO-EST</div> <div>DATE</div> <div>6/3/82</div> </div>																	
<div>ARM AND OPEN SPACE / TREE GROWTH</div> <div> <div>ASSESSED VALUE</div> <div>FULL VALUE</div> </div>																	
<div> <div>CLASSIFICATION</div> <div>ACRES</div> <div>%</div> <div>PRICE</div> <div>TOTAL</div> <div>DEPR</div> <div>+</div> <div>VALUE</div> </div>																	
<div> <div>HOUSE LOT</div> <div>1.64</div> <div>80</div> <div>136000</div> <div>28800</div> <div></div> <div>28800</div> </div>																	
<div> <div>BASE</div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>																	
<div> <div>FRONT ACRES</div> <div>1.80</div> <div></div> <div>1000</div> <div>890</div> <div></div> <div>900</div> </div>																	
<div> <div>ACREAGE</div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>																	
<div> <div>TILLABLE</div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>																	
<div> <div>PASTURE</div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>																	
<div> <div>WOODLAND</div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>																	
<div> <div>WASTE</div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>																	
<div> <div>TOTAL</div> <div>1.53</div> <div></div> <div></div> <div></div> <div></div> <div>29700</div> </div>																	
<div> <div>FRONTAGE</div> <div>DEPTH</div> <div>UNIT PRICE</div> <div>DEPTH %</div> <div>FR FT PRICE</div> <div>TOTAL</div> <div>DEPR</div> <div>VALUE</div> </div>																	
<div> <div>514</div> <div>200</div> <div>180</div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>																	
<div> <div>LOCATION</div> <div>G F P</div> <div>IMPROVING</div> <div>STATIC</div> <div>DECLINED</div> </div>																	
<div> <div>AREA TRENDS</div> <div>LEVEL</div> <div>ROUGH</div> <div>ROLLING</div> <div>SWAMPY</div> <div>HIGH</div> <div>LOW</div> </div>																	
<div> <div>OTHER FACTOR</div> <div>PAVED R</div> <div>GRAVEL</div> <div>TOWN W</div> <div>DRILLED</div> <div>DUG WE</div> <div>TOWN SE</div> <div>SEPTIC</div> </div>																	
<div> <div>LAND FACTORS</div> <div>MINUS</div> <div>VACANCY</div> <div>SEMI-IMP</div> <div>TOPOGRAPHY</div> <div>ACCESS</div> <div>R/W</div> <div>SIZE</div> <div>SHAPE</div> <div>USE</div> </div>																	
<div> <div>PLUS</div> <div>COMM. I</div> <div>OTHER</div> </div>																	

רמת גן ופריסה

(Pre 1983)

Hancock

COUNTY

TOWNSHIP

THE TOWN OF LAMOINE

PROPERTY RECORD CARD

NAME

ADDRESS

Box 681
Dorothea B. Kelley, 340 State St. Bangor, Maine

DATE

TR. STAMPS

REG. B. & P.

CARD

OF

CARDS

Box 681
Dorothea B. Kelley, 340 State St. Bangor, Maine

788-288

MAP NO.

12

SECTION

LOT

21

LEASE NO.

from

EXEMPT

STATE VALUATION RECORD

RECORD OF REVIEWS

Reviewed by

Date

No Change

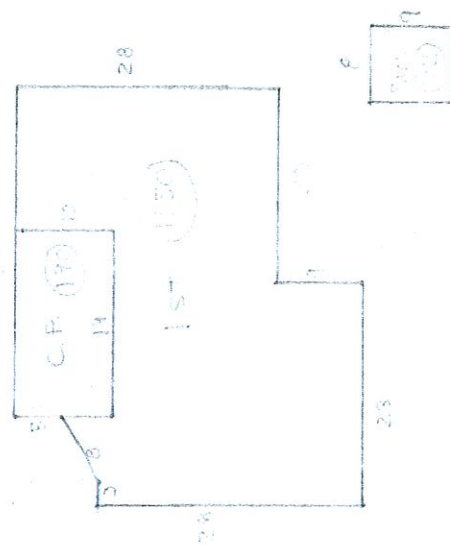
Reason for and amount of change:

Reviewed by

Date

No Change

Reason for and amount of change:



LAND VALUATION

Classification	Size or Area	Unit Price	Depth Factor	Fr. Ft. Price	Excess* Fr. Factor
Dev. S.F.	100'			90.00	
Ex. F.F.	41'			22.50	
Ex. R.L.	.07Ac.	625			

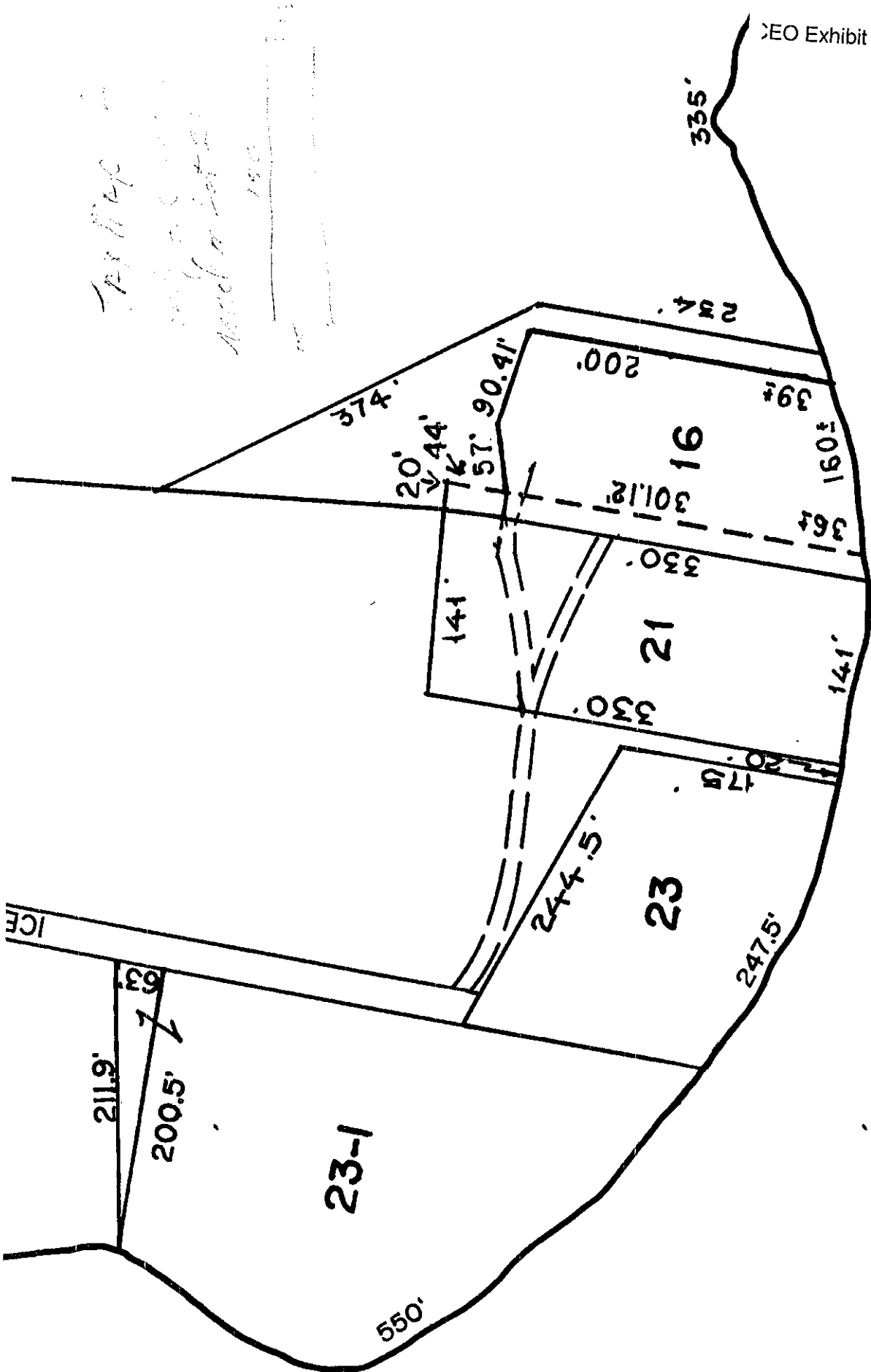
*Excess Frontage Computations:

TOTAL
TOTAL BLDGS.
LAND & BLDGS.

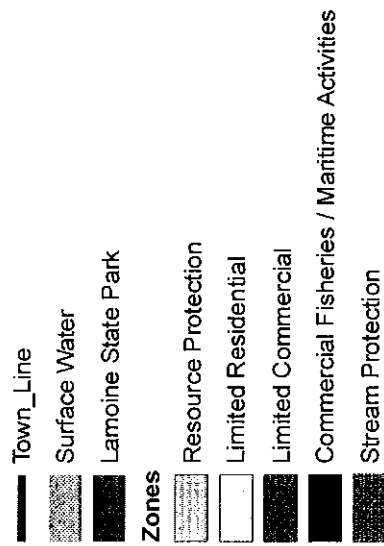
ADDITIONAL ACREAGE

YES

NO



Town of Lamoine Shoreland Zone Map



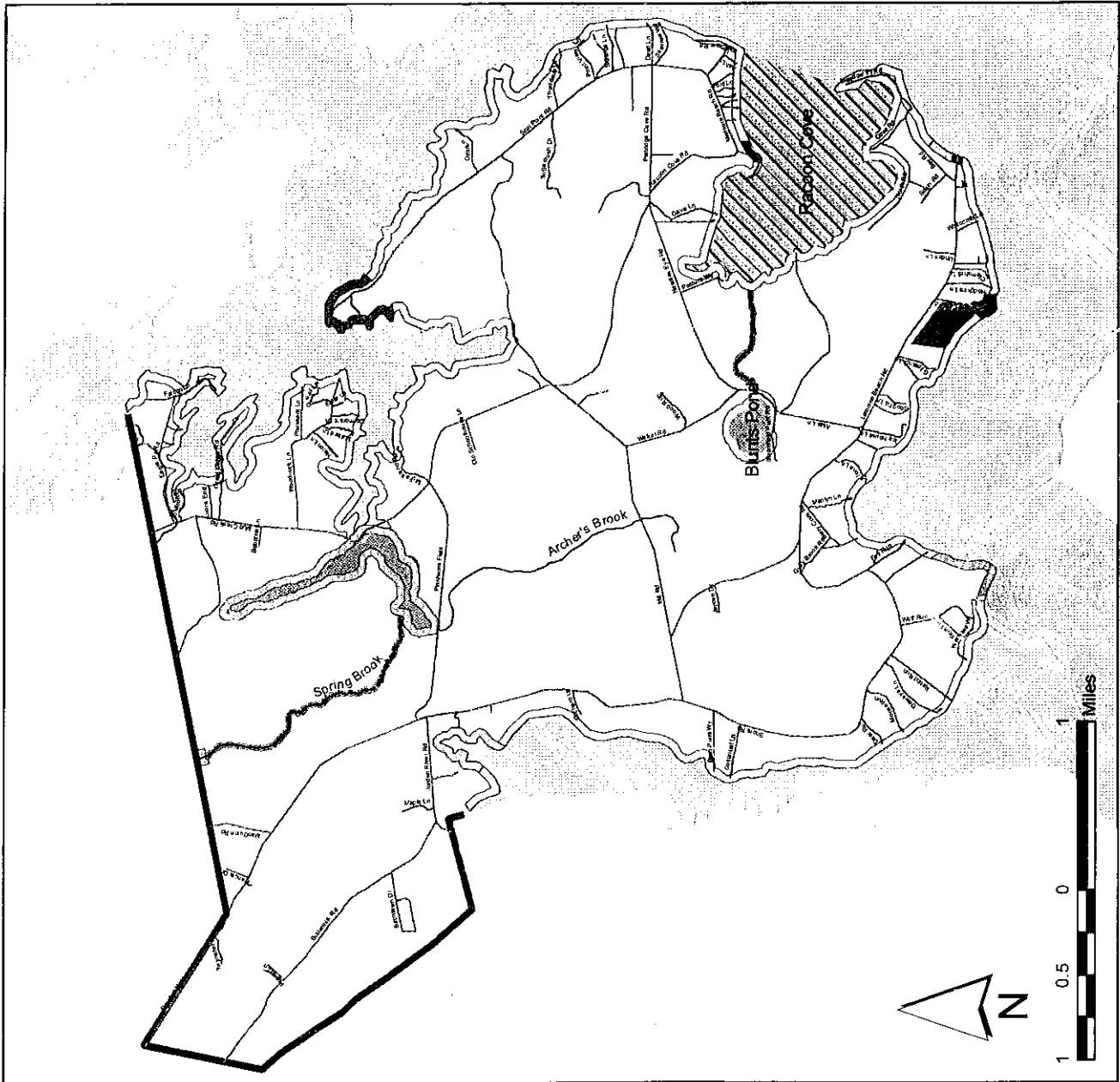
All zones are 250' from Normal High Water except for the Stream Protection Zone which is 75'.

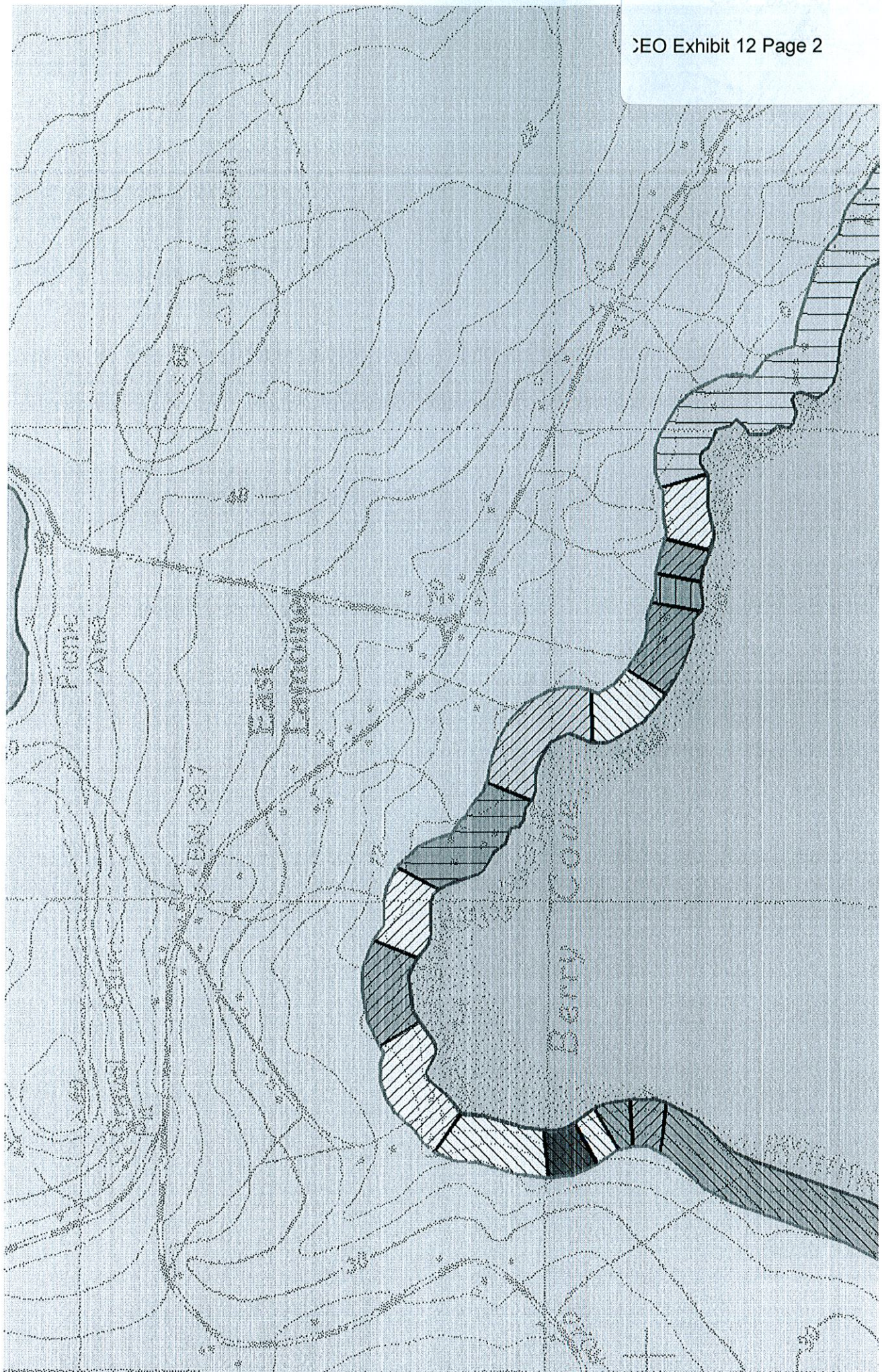
Note: The Maine Department of Environmental Protection designated Raccoon Cove a Designated Wildlife Habitat in May, 2006

CEO Exhibit 11

Data Sources:
Town of Lamoine
Maine Office of GIS
College of the Atlantic

Map prepared by
College of the Atlantic
GIS Laboratory
January 2007





MAINE SHORELAND ZONING

A HANDBOOK FOR SHORELAND
OWNERS



Maine Department of Environmental Protection

Spring, 2008

Publication Number: DEPLW0674-D08

NON-CONFORMANCE

"Non-conforming" is the term used to describe buildings, lots, and uses that do not meet current ordinance standards. Local ordinances are written, in part, with the aim of reducing non-conformities over time. There are, however, some allowances for limited improvements in nonconforming situations. Generally, a non-conforming condition shall not be allowed to become more non-conforming.

Non-Conforming Structures

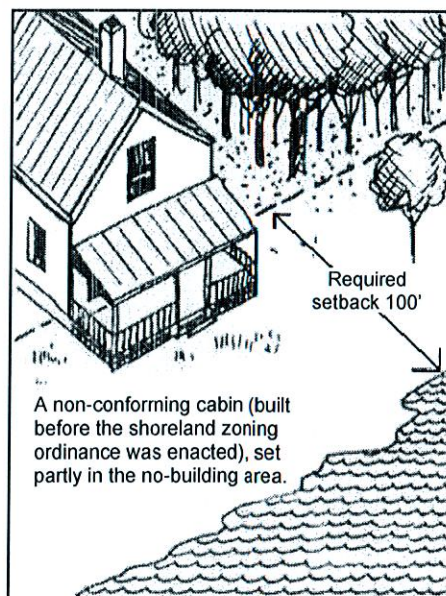
Non-conforming structures are usually buildings that predate the existence of the ordinance and are sited too close to the water, including distances from tributary streams. They can, however, be expanded under certain conditions, as outlined below. A typical non-conforming structure is a seasonal cabin, partially or wholly within the current setback area.

Repair and Maintenance

Non-conforming uses and structures may be repaired and maintained, without a permit, provided no expansion occurs. Check with your Code Enforcement Officer to determine whether other local building codes require a permit for any repair or maintenance.

No Expansion toward the Water

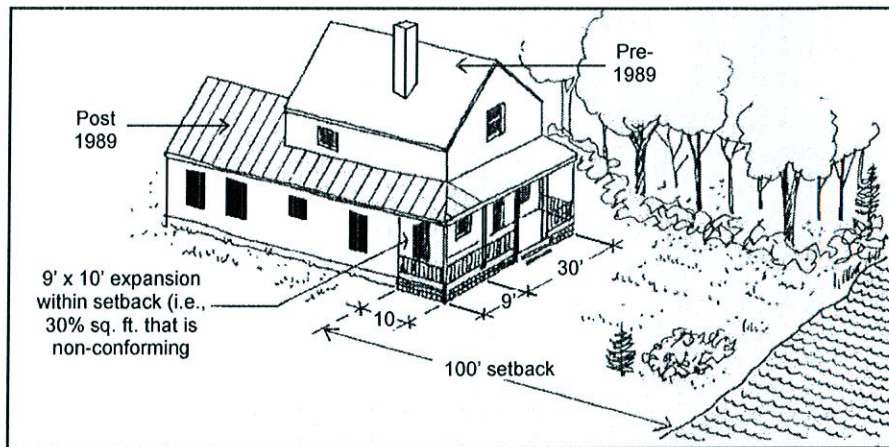
The law does not permit any expansion, including decks or patios, towards the water or wetland if the structure is already less than the required setback from the water or wetland.





The Thirty Percent Expansion Rule

A non-conforming structure that existed on January 1, 1989 may be expanded by less than 30% during the remainder of its lifetime. The 30% is based on both the floor area and the volume of the structure as it existed on January 1, 1989, but only applies to the part of the building that is within the required setback. "Floor area" includes all floors, porches, and decks; "volume" includes spaces that are within the roof and fixed exterior walls.



BASEMENTS, RELOCATIONS, AND RECONSTRUCTION

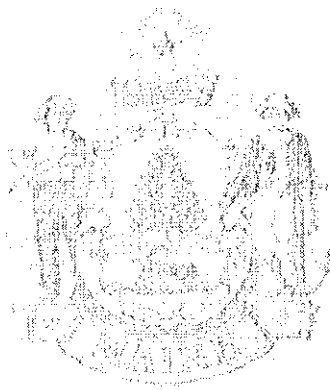
Basements

Whenever any type of permanent foundation structure (i.e. slab, frost wall, full foundation) is constructed under a non-conforming structure, the structure and new foundation must be placed to meet the shoreline setback requirement to the greatest practical extent, as determined by the local planning board. Additionally, if a new or replacement basement does not extend past the exterior dimension of the structure, and does not raise the structure by more than 3 feet, it is not considered an 'expansion', and does not count toward the 30% or alternative expansion provision.

Relocations

A non-conforming structure can be moved, provided it meets setback requirements to the greatest practical extent and that sewage disposal requirements can be met. When the relocation of a structure requires removal of vegetation within the setback area, vegetation must be replanted to compensate for that removal. Additionally, the area within the setback from which the relocated structure was moved must be

**MUNICIPAL CODE
ENFORCEMENT OFFICERS
TRAINING AND CERTIFICATION
MANUAL**



**Shoreland Zoning
With Incorporation of
Best Management Practices**

**184 State Street, Augusta, Maine 04333
www.maine.gov/spo**

**Executive Department ~ State Planning Office
July 2008**

J. Nonconformance

1. Expansions of Nonconforming Structures

This provision of the law should not be overlooked! If violations occur, the municipality and landowner are subject to potential legal action, fines, and reconstruction costs, and landowners may not be able to sell their property because lenders are justifiably unwilling to hold mortgages on property which violates the local ordinance and State law. The *Guidelines* address this provision in Section 12.C.1.

The reader should review definitions from **Section 17** of the *Guidelines* that are especially relevant to this provision. These include: *accessory structure (or use), basement, expansion of a structure, floor area, foundation, increase in nonconformity of a structure, nonconforming structure, principal structure, setback, structure, and volume of a structure.*

As discussed in Chapter 2, a **nonconforming structure** is one that does not meet one or more of the following dimensional requirements: shoreline setback, height, or lot coverage. It is allowed to remain solely because it was in lawful existence at the time the ordinance or subsequent amendments took effect.

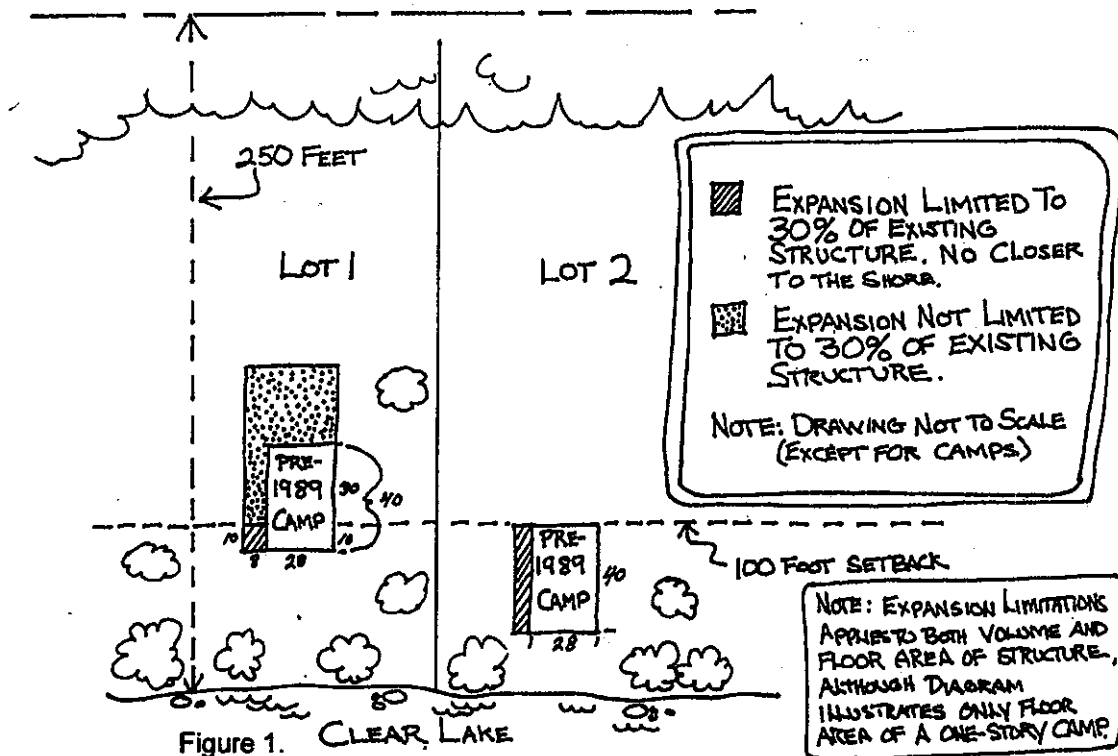
Nonconforming structures can be maintained and improved, without a permit, as part of *normal* upkeep. However, *new* additions, expansions, replacements, relocations, or changes in use require a permit from municipal officials before work can begin.

The use of a nonconforming structure can be changed provided that the **new use will have no greater adverse impact** on the water body or wetland, on the property itself, or on adjacent properties. The Planning Board makes that determination.

There are several limitations imposed on nonconforming structures that do not meet setback from the water. These include:

- **The statute limits the expansion of any and *only* that portion of the structure, which does not meet the shoreline setback requirement, to less than 30% of the existing floor area or volume as of January 1, 1989.** For example, if only a 10' x 28' section of a 40' x 28' building is nonconforming as to setback, only the 10' x 28' section is subject to the floor area and volume limitation. The remainder of the building can be expanded in compliance with other applicable standards, including lot coverage limitations. (see figure 1.)

There are several reasons for the 30% expansion limitation. However, the primary goal is to balance the need to maintain vegetated areas near the shoreline in order to protect water quality and control stormwater runoff, and to preserve the natural character of Maine's shoreland areas, while providing some expansion potential for structures which are closer to the shoreline than current standards allow.



- The 30% expansion rule applies to all affected structures as of January 1, 1989. Any expansion after that date must count toward the 30% lifetime allowance of the nonconforming portion of the structure. Smaller expansions must be cumulatively recorded and limited to less than 30%.
- **No expansions may make the structure more nonconforming.** For example, regarding water and wetland setback requirements, no structure that is less than the required setback from the water or wetland, can be expanded toward the water or wetland. Similarly, a structure, which exceeds the height limitation, cannot be expanded upward. The same is true for the lot coverage limitation. If the buildings, driveways, and other non-vegetated areas already exceed the total lot coverage limitation, these areas cannot be expanded to further increase the lot coverage. Although the *Guidelines* do not require structures to be set back a minimum distance from roads and side lot lines, many local ordinances do contain such limitations and must be considered.
- A foundation may be added to a nonconforming structure, provided that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent. A basement addition or enlargement will

C. Non-conforming Structures

1. Expansions:

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with sub paragraphs (a) and (b) below.

Further Limitations:

- a. Any portion of a structure existing on January 1, 1989 that is less than the required setback from a water body, tributary stream or wetland may be expanded, as measured in floor area or volume, by less than 30% during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12 C(3) and is less than the required setback from a water body, wetland or tributary stream, the replacement structure may not be expanded if the original structure has been expanded 30% in floor area or volume.
- b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided that
 - i. the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 2.;
 - ii. the completed foundation does not extend beyond the exterior dimensions of the structure; and
 - iii. the foundation does not cause the structure to be elevated by more than three (3) additional feet.
- c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

E. Non-conforming Lots

1. Non-conforming Lots:

A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width and shore frontage shall be obtained by action of the Board of Appeals.

A. Limited Residential District

The Limited Residential District includes those areas suitable for recreational development except for those areas that fall within the 100 year Flood Plain, which are designated as Resource Protection Districts.

TABLE 1. LAND USES IN THE SHORELAND ZONE

		<u>Land Uses</u>				
		<u>LR</u>	<u>LC</u>	<u>CFMA</u>	<u>SP</u>	<u>RP</u>
1	Agriculture	CEO ³	CEO ³	NO	CEO ³	CEO ³
2	Aquaculture	NO	PB	PB	PB	PB
3	Bunkhouses	NO	NO	NO	NO	NO
4	Campgrounds	PB	PB	no	no	no
5	Clearing of vegetation for approved construction and other allowed uses	yes	yes	yes	CEO	CEO ¹
6	Conversions of seasonal residences to year-round residences	LPI	LPI	no	LPI	no
7	Emergency operations	yes	yes	yes	yes	yes
8	Essential services	PB	PB	PB	PB ⁶	PB ⁶
9	Filling and earthmoving of < 10 cubic yards	yes	yes	yes	CEO	CEO
10	Filling and earthmoving of > 10 cubic yards	CEO	CEO	CEO	PB	PB
11	Fire prevention activities	yes	yes	yes	yes	yes
12	Forest management activities except for timber harvesting	yes	yes	yes	yes	yes
13	Home occupations	PB	PB	PB	NO	no
14	Individual, private campsites	CEO	CEO	CEO	CEO	CEO
15	Marinas	PB	PB	PB	NO	no
16	Mineral exploration	NO	NO	NO	NO	NO
17	Mineral extraction including sand and gravel extraction	NO	NO	NO	NO	NO
18	Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
19	Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
20	Parking facilities	PB	PB	PB ⁵	no	no
21	Pathway within 100' of median high water	CEO	CEO	CEO	CEO	CEO
22	Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland					
	a. Temporary	CEO	CEO	CEO	CEO	CEO
	b. Permanent	PB	PB	PB ⁵	PB	PB
23	Principal Structures and uses					
	A. One and two family residential	CEO	CEO	no	NO	no
	B. Multi-unit residential	PB	PB	no	no	no
	C. Commercial	no	PB	PB ⁵	no	no
	D. Industrial	no	no	PB ⁵	no	no
	E. Governmental and Institutional	no	PB	PB ⁵	no	no
	F. Small non-residential facilities for educational, scientific or nature interpretation purposes.	CEO	CEO	PB ⁵	PB ⁴	PB
24	Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPINO	no
25	Public and private recreational areas involving removal or addition of more than 10 cubic yards of soils and minor structural development.	PBCEO	CEO	CEOPB ⁵	PBNO	PBNO
26	Road and driveway construction	CEO	CEO	CEO ⁵	PB	no ⁸
27	Service drops, as defined, to allowed uses	yes	yes	yes	CEO	CEO
28	Signs	CEO	CEO	CEO	CEO	CEO
29	Soil and water conservation practices	yes	yes	yes	yes	yes
30	Structures accessory to allowed uses	CEO	CEO	PB	PB ⁴	PB
31	Surveying and resource analysis	yes	yes	yes	yes	yes
32	Timber Harvesting	CEO	CEO	CEO	CEO	CEO ¹
33	Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
34	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
35	Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB
36	Wildlife management practices	yes	yes	yes	yes	yes

¹ In RP not permitted within 75 feet of the normal high-water line of great ponds, except to remove safety hazards

² Requires permit from the Code enforcement Officer if more than 100 square feet of surface area, in total, is disturbed

³ See Section 15M (Agriculture)

⁴ Provided that a variance from the setback requirement is obtained from the Board of Appeals

⁵ Functionally water-dependent uses and uses accessory to such water dependent uses only

⁶ See further restrictions in Section 15 (K)(2)

⁷ Except when area is zoned for resource protection due to Flood Plain criteria in which case a permit is required from the Planning Board

⁸ Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection pursuant to Title 38 M.R.S.A., Section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

A. Dredging, bulldozing, removing or displacing soil, sand vegetation or other materials;

B. Draining or otherwise dewatering;

C. Filling, including adding sand or other material to a sand dune; or

D. Any construction or alteration of any permanent structure.

Section 15. LAND USE STANDARDS

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

	Minimum Lot Area (square feet)	Minimum Shore Frontage (feet)
1. <u>Minimum Lot Size</u>	40,000	200
2. <u>Residential per dwelling unit</u>		
a. Within the Shoreland Zone Adjacent to Tidal Areas	40,000	200
b. Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
3. <u>Governmental, Institutional, Commercial or Industrial per principal structure</u>		
a. Within the Shoreland Zone Adjacent to Tidal Areas Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	60,000	300
b. Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
c. Within the Shoreland Zone Adjacent to Non-Tidal Areas	60,000	300
4. <u>Public and Private Recreational Facilities</u>		
a. Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	60,000	300

5. If more than one residential dwelling unit, more than one governmental, institutional, commercial or industrial principal structure, or more than one public or private recreational facility is constructed on a single parcel, all dimensional requirements, including shore frontage, shall be met for each additional unit, principal structure, or facility.

When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.

6. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

7. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

8. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

9. Lots shall meet or exceed the minimum lot standards of the Building Code, Town of Lamoine.

B. Required Setbacks and other Structure Standards

1. Setbacks from Normal High-Water and Flood Plain Boundaries

All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of any water bodies, tributary streams, or the upland edge of a wetland, except:

- a. in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback if uses are functionally water-dependent; or
- b. when dictated otherwise by the Lamoine Flood Plain Management Ordinance.

The one hundred (100) foot setback mark must be approved by the Code Enforcement Officer prior to any work being done or, in cases where a structure or activities are to be within 125 feet of normal high-water line, the setback mark must be marked with stakes set by a registered surveyor at the owner's expense and a letter from said surveyor attached to the application for shoreland permit.

2. Coastal Bluffs

For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps (available at the Town Hall) as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

5. Total Area

The total area of all structures, parking lots and other non-vegetated surfaces within the shoreland zone shall not exceed ten (10) percent of the lot or a portion thereof located within the shoreland zone, including land area previously developed, except in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.

6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland; (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C or its successor statute); and that the applicant demonstrates that no reasonable access alternative exists on the property.

Increase in nonconformity of a structure – any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.